

# **BOLINAS LAGOON ENVIRONMENTAL RESTORATION PROJECT REAL ESTATE PLAN**

## **General Project Description**

The project proposes to restore intertidal and subtidal habitat and stop further loss of these habitats through restoring tidal prism and improving circulation within the basin while maintaining key mudflats, marsh vegetation, and other areas of biological importance. This restoration project is intended to restore intertidal and subtidal habitats that have been lost.

This Real Estate Plan is an appendix to the Feasibility Report. An Expedited Reconnaissance Phase was completed in 1998, and a 905b Fact Sheet was prepared accordingly. In this Fact Sheet, the Real Estate Division provided an estimate of what lands were proposed to be included and an estimate of the potential land values for said lands. The study authority was per the Committee on Transportation and Infrastructure of the United States House of Representatives decision that the Secretary of the Army review the report of the Chief of Engineers on Channel to Bolinas, California, published as House Document 537, Sixty-fourth Congress First Session and other pertinent reports, to determine whether modifications of the recommendations contained therein are advisable at the present time in the interest of ecosystem protection, enhancement, and restoration and related purposes at Bolinas Lagoon, California.

## **Description of Project Area**

The proposed project is located on the northern California coast in Marin County, 12 miles northwest of San Francisco and the Golden Gate Bridge and near the Stinson Beach and Bolinas communities. The project study area includes all of Bolinas Lagoon (1100 acres, 445 hectares, 1.7 square miles) and its watershed (17 square miles). The Bolinas Ridge forms the eastern side, and the sand spit of Stinson Beach forms the western boundary of the lagoon. The largest single contributor of water and sediment to the Bolinas Lagoon watershed is Pine Gulch Creek, a perennial tributary located on the northwestern side of the lagoon near the town of Bolinas. On the eastern side there are several smaller intermittent creeks flowing in from the Bolinas Ridge, including Easkoot Creek. The "Seadrift Community," which is located at Seadrift Lagoon, is a private subdivision, the Seadrift Subdivision. Seadrift Lagoon was created during the development of this subdivision when the sandpit was widened on the Dipsea Road side and dredged in the center to create an artificial lagoon. Water supply to the lagoon is provided by means of intake near the northwestern end, which is opened during high tide to allow inflow from Bolinas Lagoon. Another culvert exits Seadrift Lagoon and flows into Bolinas Lagoon at the southeastern end. The intake and outfall facilities are operated

to maintain a stable elevation in the lagoon and to allow regular flushing of water through Seadrift Lagoon. Seadrift Lagoon is about 400 hundred feet wide and is underlain by beach sand.

### **National Ecosystem Restoration (NER) Plan**

This study is for an environmental restoration project and therefore does not consider a National Economic Development Plan. This is per ER-1105-2-100, which states, “Ecosystem restoration is one of the primary missions of the Corp of Engineers Civil Works program. The Corps objective in ecosystem restoration planning is to contribute to National Ecosystem Restoration (NER). ... Single purpose ecosystem restoration plans shall be formulated and evaluated in terms of their net contributions to increases in ecosystem value (NER outputs), expressed in non-monetary units...” An evaluation of an array of alternatives that would increase the tidal prism, enlarge the volume of water in the lagoon, and retard the successional processes that have been converting the lagoon to dry land were evaluated. The selected NER plan for this project is the North, Central (Estuarine), and South (No Seadrift) alternative plan.

### **Locally Preferred Plan (LPP)**

There is an LPP. The LPP is the North, Central (Riparian), and South (No Seadrift) alternative plan.

The real estate requirements remain the same for both the NER and LPP.

### **Project Features**

The major part of the project is dredging and land excavation for both the NER and the LPP. There are other features that will involve real estate acquisitions and are, therefore, described here for clarification. They are Dipsea Road Fill Removal and placement of a hydraulic dredge pipeline for approximately eight years, or the duration of the construction. This will also require temporary road access.

### **Dipsea Road**

There will be fill removal between the elevation 0’ and 7’ NGVD along Dipsea Road leading toward the southeast end of the Seadrift Community. Dipsea Road runs directly along the Seadrift Community. Because of regulations governing Bolinas Lagoon, septic systems cannot be closer than 100 feet to the edge of the water. Therefore, to maintain water quality standards, fill would only be removed from areas in excess of 100 feet from the road. This “fill removal” will require a permanent channel improvement easement.

### **Placement of Dredge Pipeline and Access Road**

The project will require placement of a hydraulic dredge pipeline for eight years for the length of construction. The dredge will be in the lagoon (SE end of Seadrift Lagoon Community) with the pipeline attached to the dredge that transports the dredge material to be deposited into barges that will be located in Bolinas Bay. This will require a temporary pipeline easement for eight years. There is also a requirement to use an existing road owned by the Seadrift Association for this work. This will require a temporary road easement for eight years.

The real estate requirements consist of a permanent easement for 275.94 acres, permanent channel improvement easement for 8.58 acres, temporary pipeline easement for 0.52 acres, temporary road easement for 0.12 acres, and temporary work area easements for 1.28 acres. The following table delineates the properties required for the project features:

Feature	Estate	Owner	Acreage	Parcels
Dredging of Lagoon	Channel Improvement Easement	**Marin County	216.37 acres	188-110-10,-07,-34,188-150-46,188-160-28,195-290-10,-03,-21,-22,-08,-1,-19,195-270-01,193-082-13,195-260-05
Dredging of Lagoon	Channel Improvement Easement	Marin County Open Space District	0.26 acres	195-061-01,-03,-04,-05,-13,-15,-21
Dredging of Lagoon	Channel Improvement Easement	State of California	2.25 acres	195-280-02
Dredging of Lagoon	Channel Improvement Easement	Sanitation District	0.31 acres	188-140-08
Dredging of Lagoon	Channel Improvement Easement	Stinson Beach County Water Dist.	0.16 acres	195-132-28
Dredging of Lagoon	Channel Improvement Easement (PERMIT)	United States (GGNRA)	46.63 acres	195-270-13
Dredging of Lagoon	Channel Improvement Easement	Private (Seadrift Community – SW End (Submerged) Parcels	9.17 acres	195-300-15,-16, 195-310-69,-68,-67,-66,-65,-64,-63,-62,-61,-37,-35,-60,-59,-29,-27,-58,195-320-67,-70,-77,-78,195-340-73,-72,195-07036,195-080-29,195-090-44,-45,-46,-47,-55,-52,-53
Dredging of Lagoon	Channel Improvement Easement	Private – Wharf Rd. near Bolinas	0.17 acres	193-082-19, 193-082-24
Dredging of Lagoon	Channel Improvement Easement	Private – Wharf Rd. near Kent Island	0.616acre	193-082-21,-20,-17,-18
Fill Removal (Dipsea Rd.)	Channel Improvement Easement	Private (Seadrift Community – SE End)	8.58 acres	195-090-53,-52,-55,-47,-46,-45,195-080-29,-195-070-36
Construction Staging Areas	Temporary Work Area Easement	Marin County	0.35 acres	188-160-28
Construction Staging Areas	Temporary Work Area Easement (ENCROACHMENT PERMIT)	*U.S./CAL TRANS	0.93 acres	195-270-13
Access Road For Dredge Removal	Temporary Road Easement (8 yrs.)	Private (Seadrift Assoc.)	0.030 acres 0.090 acres	195-300-15 195-300-16
Placement of Dredge Pipe	Temporary Pipeline Easement	Private (Seadrift Assoc.)	0.220 acres 0.300 acres	195-300-07 195-300-15

\*Assessor's records show that this required area is in U.S. ownership (GGNRA) but the area is actually part of HWY One that is controlled by CALTRANS.

**Total Lands Required for Project are 286.44 acres.**

**Total Lands to be Provided by Sponsor are 286.44 acres.**

**\*\*MEMORANDUM OF UNDERSTANDING** – Marin County owns 216.37 acres of the Bolinas Lagoon that are required for this project. They were granted these lands through legislation in 1969 from the State Lands Commission (SLC). This grant provided the County with sufficient rights to provide these lands for the purposes of this project, in which the SLC concurs. Marin County, however, is not the non-Federal Sponsor (NFS). The NFS is the Marin County Open Space District (MCOSD). MCOSD is not an entity of the County of Marin, nor is it a political subdivision of the State. It is a special district and a separate legal entity from the County of Marin. However, the Marin County Board of Supervisors consists of the same five individuals as the MCOSD Board of Directors. The MCOSD (NFS) has acquired property from Marin County in the past. However, since the property in the Bolinas Lagoon was granted by SLC, Marin County is prohibited from transferring it to MCOSD. An MOU, as discussed at the AFB held on 13 December 2001, will be executed between Marin County and MCOSD. The main purpose of the MOU would be to provide for Marin County allowing MCOSD to use these lands in perpetuity for the project. The MOU will contain language that provides for the use of the submerged lands in Bolinas Lagoon, which were granted to Marin County by the SLC, for the Federal project and ensures that they are available for the project as long as the project is authorized. The fact that the non-Federal sponsor is providing the lands in the Bolinas Lagoon via an MOU with Marin County, with Marin County retaining the “ownership” granted to them by the State Lands Commission, and the fact that MCOSD will not, in fact, have to purchase/acquire these lands, will preclude them from receiving LERRD credit for such submerged lands.

### **Estates**

The required standard estates for this project include fee, permanent channel improvement easements, temporary pipeline easement, temporary road easement, and temporary work area easements. The non-standard estate of permanent channel improvement easement is requested, however, in lieu of fee for the lands within the Bolinas Lagoon that are to be acquired from private property owners. It is also requested that a Permit from GGNRA for the Federally owned lands within the Bolinas Lagoon waters and an Encroachment Permit for the construction staging area along Highway One, owned by the State of California, Department of Transportation (CALTRANS) be approved as non-standard estates for the one-time dredging and the construction area, respectively, since these are Government agencies that cannot transfer perpetual easements, fee, or temporary work area easements. Also, the Federally owned land is within the lagoon waters and cannot be used for other purposes that would interfere with the Federal project.

A channel improvement easement is requested in lieu of fee from private owners because acquisition of fee title is not considered necessary for the purposes of this particular Environmental Restoration Project (ERP). Fee acquisition is the required estate in an ERP for the purpose of insuring the integrity of a Federal project by providing sufficient land rights as long as the project is authorized. This particular ERP project differs from

most ERPs that usually constitute the preservation of a wetlands habitat on upland. This particular ERP will restore tidal prism and improve circulation of the existing lagoon, reversing the loss of intertidal and subtidal habitats. The project is unique from other ERPs in that it will require only one-time dredging of a lagoon. Fee acquisition is not necessary for a one-time dredging, but there is a necessity to acquire a perpetual right from those who own title to project lands within the lagoon waters to insure that any use of these lands would not interfere with the integrity of the project. The perpetual easement would be required for only underwater parcels. These underwater parcels are part of privately owned larger parcels. They are not used by the owners for improvements but simply lie within the lagoon. The dredging would not affect any improvements on such private properties. Further, a perpetual easement is considered to be sufficient for protecting the project in consideration of the fact that these parcels, lying within the Bolinas Lagoon, are closely and strictly governed by the Gulf of the Farallones National Marine Sanctuary. Section 922.82 of 15 CFR Ch. IX (1-1-97 Edition), which regulates all activities in the Bolinas Lagoon, provides that "... Any activities, such as exploring for, developing and producing oil or gas...discharging or depositing any material ... construction of any structure other than a navigational aid, drilling through the seabed, any disturbance to seabirds or marine mammals ... and removing or damaging any historical or cultural resource..." are strictly prohibited by their laws.

Fee acquisitions of portions of privately owned parcels would most likely involve more complex and costly negotiations and acquisitions, since acquiring an easement would be a less severe taking and would allow the private property owner to retain ownership of their entire parcel, and permanent easements would suffice for the purposes of this one-time dredging project. This was discussed with the NFS's Real Estate Department, and they concur this would be the least costly type of acquisition. No real benefit would be obtained by attempting fee acquisitions since a perpetual easement would provide sufficient interest for this type of ERP. There could be consideration of fee acquisitions with reservation clauses allowing the owner to maintain an easement interest so there would be no severance of their rights or impact to their enjoyment of the use of the property. This could be considered during the acquisition process by the NFS through individual negotiations on a case-by-case basis.

### **Proposed Non-Standard Estate**

The standard Channel Improvement Easement language is proposed as the non-standard estate language in lieu of fee.

### **Federal and State –Owned Lands**

As stated above, there are some submerged lands within the Bolinas Lagoon owned by GGNRA, and there is a temporary construction area, requiring a temporary work area easement along the Highway One owned by the CALTRANS. The GGNRA owns fee title to this parcel located within the Bolinas Lagoon and that is required for the project. Representatives from GGNRA have been contacted. They would provide a permit for the use of this property. Further investigations with them are underway to determine and

detail the authorities under which they acquired the property. The proposed project is compatible with these authorizations. The GGNRA has been coordinated with through the draft EIS. CALTRANS was contacted regarding the use of their property along Highway One. They have no objection to allowing this property to be used for such purposes and would grant an Encroachment Permit to the NFS for such purposes. It is requested that an Encroachment Permit be accepted in lieu of the standard estate of temporary work area easement. It would provide the same rights and is the only type of temporary right the State can legally grant, and it would provide essentially the same rights. It is understood that such requests would normally not be acceptable, but it is requested that in these particular cases where the owners are State and Federal, exceptions be made to allow the permits to suffice. The reasons for this exception are not solely due to the ownerships being State and Federal, which in themselves would not be a sufficient argument, but also because the Federal ownership is located in the lagoon waters that will require only one-time dredging, and the State-owned property is only for temporary construction.

### **Navigation Servitude**

The Navigation Servitude does not apply to this project, because this is an Environmental Restoration Project and not a Navigation Project. The SPK Real Estate attorney has confirmed that the navigation servitude cannot be applied to a project that does not have a navigation feature nor is for navigation purposes.

### **Baseline Cost Estimate**

Project	Non-Federal	Federal	Lands (LERRDS)	Total Project Cost
Bolinas Lagoon	\$645,300	\$216,100	\$1,170,000	\$2,031,400
Project Total	\$645,300	\$216,100	\$1,170,000	\$2,031,400

Includes contingencies.

It was understood at the Alternative Formulation Briefing (AFB) that the non-Federal sponsor would not receive credit for those lands acquired at no cost from the Federal Government or through an MOU between Marin County and the NFS, Marin County Open Space District.

### **TOTAL ESTIMATED VALUE OF LANDS**

### **Public Law 91-646, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by Public Law 100-17**

There are no relocations involved in this project.

### **Facility/Utility Relocations**

There are no utility or facility relocations in this project.

### **Non-Federal Sponsor's Ability to Acquire**

The non-Federal sponsor is the Marin County Open Space District. They have the ability to acquire property and pursue eminent domain. They will be contracting all the real estate work out to a private contractor.

### **Mitigation**

The project is an environmental restoration project, and the environment will be enhanced by the project. There are no project features that would cause a need for mitigation. It should be noted that the project maps refer to fee lands as mitigation. This is a printing error on the maps and the word mitigation will be removed from the maps for the Final Feasibility Report.

### **Hazardous, Toxic, and Radiological Waste (HTRW)**

There are no HTRW concerns in this project. No sampling has been done but will be during the PED phase. Sampling was not done during this feasibility phase since to do so was considered unnecessary due to the area being relatively undeveloped. There was no evidence of any activity to lead to a concern about HTRW issues.

### **Disposal of Dredge Material**

The wet dredge material will be disposed of at SFDODS. The dry material will be hauled by the contractor to a landfill site. This will be a construction cost. No land rights will be required for disposal of dredge material.

### **Taking Analysis**

A taking analysis was not done by the Sacramento District Real Estate attorney. This was determined to be unnecessary since San Francisco District engineers have determined that the dredging would not affect private properties. High Tide Line – The project map depicts a high tide line after the project construction. Several private properties are affected per this high tide line in three different areas of the Bolinas Lagoon. These areas are the Wharf Road area in the town of Bolinas, the area near Kent Island, and the portion of Seadrift Community at the southeast end of Bolinas Lagoon. The San Francisco District engineer in Water Resources Branch, who provided the high tide line on the project design has stated in writing, as follows, to the Real Estate Division that this proposed high tide line will not affect the private properties in the southeast end of Bolinas Lagoon.

- The properties and houses in question were built or owned during the 1950's and 1960's and the water levels in this time frame are approximately the water levels that would result from a fully

constructed project. This means that the properties and houses would not be impacted any greater than they have been historically.

- It is not certain that the water level line location is correct. The survey data is fairly coarse in this area. The blue point data was taken roughly on two (2) foot contours. Since a maximum water level increase of 0.7' is expected, it falls within the "error" or "coarseness" of the survey. A more detailed survey of this area would be completed in the PED phase of the project to clarify the situation.
- Some land features have been missed by the survey. The figures show sharp changes in vegetation type, which usually signifies a sharp break in slope. This further supports the current belief that the survey "missed" the true slope of the property, which causes the waterline to be located incorrectly. In a sense the survey straddled an important feature.
- This situation will be clarified in the PED phase of the project. If it is found that impacts will occur, the Real Estate Division will be notified and a solution will be reached. Since the rise in water level will be small ( $\leq 0.7'$ ), any modifications to the properties that are needed will be small, i.e., small change in elevation at the outside edge of property.

The properties shown on the project map in this area discussed above (SE end of Seadrift Community) as impacted by the project high tide line are, therefore, not being considered as required for this project and thus not included in the LERRDs requirements for this project. This also applies to the private properties located near Wharf Road near Bolinas and Kent Island.

The final design in PED will confirm this. If analysis during PED indicates a possibility of a taking due to changes that can occur in the PED phase, a taking analysis will be done at that time. This will be addressed in the Detailed Design Report (DDR) during PED, coordinated with the sponsor and potential additional acquisitions will be researched. Restricting dredging to avoid impacting private parcels will be encouraged, coordinated, and discussed during PED to avoid potential takings. The avoidance of these properties has been previously discussed during the feasibility design. The Real Estate Division has advised that such real estate takings, if ultimately deemed necessary per the PED final design, could be a substantial cost and could adversely affect the project costs.

### **Landowner's Attitude**

The entire community is positive about the project. The landowners are supportive of the project.

### **Acquisition Schedule**

An Acquisition Schedule is attached to this report and has been coordinated with the non-Federal sponsor.

### **Project Map**

A project map is attached to this report.



## SCHEDULE A REAL ESTATE MILESTONES

<b>Bolinas Lagoon – Environmental Restoration Project</b>	<b>*COE Start</b>	<b>*COE Finish</b>	<b>*NFS Start</b>	<b>*NFS Finish</b>
<b>Execution of PCA</b>		<b>01/05</b>		<b>01/05</b>
<b>Landowner Meeting</b>			<b>02/05</b>	<b>02/05</b>
<b>Prepare Mapping/Legal Descriptions</b>			<b>01/05</b>	<b>02/05</b>
<b>Obtain/Review Title Evidence</b>			<b>01/05</b>	<b>03/05</b>
<b>Obtain/Review Appraisals</b>			<b>03/05</b>	<b>06/05</b>
<b>Conduct Negotiations</b>			<b>12/05</b>	<b>04/06</b>
<b>Perform Closings</b>			<b>02/06</b>	<b>06/06</b>
<b>Perform Condemnations</b>			<b>04/06</b>	<b>06/06</b>
<b>Obtain Possession</b>			<b>04/06</b>	<b>0406</b>
<b>Complete Review of PL 91-646 Relocations</b>			<b>N/A</b>	<b>N/A</b>
<b>Conduct/Review Facility/Utility Relocations</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
<b>Certify all Necessary LERRDS are Available for Construction</b>	<b>04/06</b>	<b>04/06</b>		
<b>Prepare &amp; Submit Credit Requests</b>			<b>09/06</b>	<b>12/06</b>
<b>Review/Approve or Deny Credit Request</b>	<b>01/07</b>	<b>03/07</b>		
<b>Establish Value for Creditable LERRD in F&amp;A Cost Accounting System</b>	<b>10/07</b>	<b>01/ 08</b>		

**\*COE – Corps of Engineers**

**\*NFS – Non-Federal Sponsor**

## **ASSESSMENT OF NON-FEDERAL SPONSOR'S REAL ESTATE ACQUISITION CAPABILITY**

### **I. Legal Authority:**

a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes?

**YES**

b. Does the sponsor have the power of eminent domain for this project?

**YES**

c. Does the sponsor have "quick-take" authority for this project?

**NO**

d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary?

**NO**

e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn?

Yes, there are some areas owned by the Federal Government, but these will be acquired through the BRAC process and a PBC from the Navy.

### **II. Human Resource Requirements:**

a. Will the sponsor's in-house staff require training to become familiar with the real estate requirements of Federal projects including PL 91-646, as amended?

**NO**

b. If the answer to II. a. is "yes", has a reasonable plan been developed to provide such training?

**N/A**

c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project?

**YES**

d. Is the sponsor's projected in-house staffing level sufficient considering its other workload, if any, and the project schedule?

**NO**

e. Can the sponsor obtain contractor support, if required, in a timely fashion

**YES**

f. Will the sponsor likely request USACE assistance in acquiring real estate? There will be Federal assistance in the condemnation of the State Lands Parcel referred to as the Antennae Field on HWRP.

**III. Other Project Variables:**

- a. Will the sponsor's staff be located within reasonable proximity to the project site?  
YES
- b. Has the sponsor approved the project/real estate schedule/milestones?  
The sponsor has approved the real estate schedule milestones.

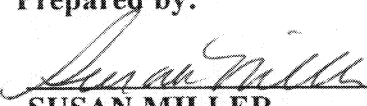
**IV. Overall Assessment:**

- a. Has the sponsor performed satisfactorily on other USACE projects?  
YES
- b. With regard to this project, the sponsor is anticipated to be:  
(Capable – Highly Capable – Not capable, etc.)  
Highly Capable

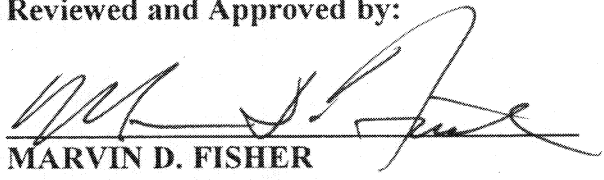
**V. Coordination:**

- a. Has this assessment been coordinated with the sponsor?  
YES
- b. Does the sponsor concur with this assessment?  
YES

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